

(2013) 12 KAR CK 0126

In the Karnataka High Court

Case No : Writ Petition No. 57355 of 2013 (GM-RES)

Smt. Jayamma

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0126

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Satish R. Girji, for the Appellant; H.V. Manjunatha, AGA., for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The petitioner is before this Court assailing the order dated 03.12.2013 impugned at Annexure-H to the petition. The petitioner is also seeking for issue of mandamus to respondents No. 2 and 3 not to interfere in the day-to-day business of the petitioner at Gajanana Bar and Restaurant, No. 151, 60 Feet Road, Near Police Chowki, 3rd Cross, Chowdeshwarinagar, Bangalore-560 058. The case of the petitioner is that her husband Sri H. Ramachandraiah is the absolute owner of the property bearing Khatha No. 53-1, Present Khatha No. 147, Site No. 151, Yeshwanthpura Hobli, Bangalore North Taluk. The petitioner contends that in the said premises she has been running the Bar and Restaurant after obtaining the appropriate CL-9 license.

2. The grievance of the petitioner is that without any opportunity either to the petitioner or to her husband, the order dated 03.12.2013 at Annexure-H has been issued from the office of the second/respondent. It is also the case of the petitioner that respondents No. 1 and 2 are not permitting the petitioner to run the Bar and Restaurant therein even though no illegality has been committed by the petitioner. It is contended that the respondents No. 1 and 2 without initiating any legal proceedings are forcing the petitioner not to carry on the business.

3. With regard to the challenge made by the petitioner to the order dated 03.12.2013 at Annexure-H, it is to be noticed that the same is a confirmation order issued u/s 321(1) of the Karnataka Municipal Corporation Act. Against the said order, an appeal is provided to the Karnataka Appellate Tribunal under the Act. Hence, the correctness or otherwise of the order issued by the third respondent would not arise for consideration in the instant petition. The petitioner no doubt would have the liberty to assail the same in accordance with law.

4. Insofar as the allegations made against the respondents No. 1 and 2, more particularly respondent No. 2, the learned Government Advocate on instructions would submit that the second respondent has no role to play and the petitioner has not been prevented by him from carrying on her business. It is the categorical statement that no closure order has been passed nor the petitioner is forced to do so.

5. In that view of the matter, I am of the opinion, at this juncture any direction to the second respondent would not arise. Needless to mention that if there are any issues and if the second respondent without initiating any action against the petitioner in accordance with law but, would still interfere with the business of the petitioner, certainly it would be open for the petitioner to make an appropriate representation to the higher authorities including to the Commissioner of Police indicating specific instances of the interference and the allegations made against the second respondent. If such representation is made to the police authorities, they shall look into the same and pass appropriate orders in accordance with law. Registry to return the original of Annexure-H to the petitioner to enable the petitioner to file the appeal in accordance with law.

In terms of the above, the petition stands disposed of.